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Toni Paila

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EXAMINER

VUONG, QUOCHIEN B

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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES

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*Ex parte* TONI PAILA, JANI PAIKELA, LIN XU,  
JUHA-PEKKA LUOMA and ROD WALSH

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Application 09/988,241  
Technology Center 2600

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Mailed: January 5, 2009

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Before KRISTA ZELE, *Deputy Chief Appeals Administrator*.  
ZELE, *Deputy Chief Appeals Administrator*.

ORDER RETURNING UNDOCKETED APPEAL

This application was electronically received by the Board of Patent Appeals and Interferences on May 14, 2008. A review of the application has revealed that it is not ready for docketing as an appeal. Accordingly, the application is herewith being returned to the Examiner to address the following matter(s) requiring attention prior to docketing.

Appellants' Brief filed August 12, 2006, is not in full compliance with the rules under 37 CFR § 41.37.

37 CFR § 41.37 states in part:

(c)(1) The brief will contain the following items under appropriate headings and in the order indicated in paragraphs (c)(1)(i) through (c)(1)(x) of this section . . . :

. . .

(v) *Summary of invention.* A concise explanation of the subject matter defined in each of the independent claims involved in the appeal, which must refer to the specification by page and line number, and to the drawing, if any, by reference characters. . . . each independent claim involved in the appeal and [ ] each dependent claim argued separately . . . must be set forth with reference to the specification by page and line number, and to the drawing, if any, by reference characters.

(1) Appellant's "SUMMARY OF CLAIMED SUBJECT MATTER" on pages 2-3 of the Brief appears to be a concise explanation of the subject matter of the claims involved in the appeal, however, the summary does not specifically map the subject matter of each of the independent claims separately. Correction is required.

MPEP § 1205.03 states:

(B) When the Office holds the brief to be defective solely due to appellant's failure to provide a summary of the claimed subject matter as required by 37 CFR 41.37(c)(1)(v), an entire new brief need not, and should not, be filed. Rather, a paper providing a summary of the claimed subject matter as

required by 37 CFR 41.37(c)(1)(v) will suffice. Failure to timely respond to the Office's requirement will result in dismissal of the appeal. See MPEP § 1215.04 and §711.02(b).

Accordingly, it is

ORDERED that the application is returned to the examiner

- a.) to hold the Appeal Brief filed August 12, 2006, defective and notification to Appellant to file a supplemental paper to the Appeal Brief correcting the "Summary of Claimed Subject Matter" error noted above,
- b.) for consideration of the Brief supplement, and
- c.) for such further action as may be appropriate.

If there are any questions pertaining to this Order, please contact the Board of Patent Appeals and Interferences at 571-272-9797

KZ/ vsh

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